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HOUSE BILL 2395 By
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SENATE BILL 2614
By Cooper J

AN ACT to amend Tennessee Code Annotated, Title 71, Chapter 6, Part 1, relative to adult protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 71-6-102, is amended by deleting item (8) and by substituting instead the following:

(8) "Exploitation" means the illegal or improper use of an adult or the adult's resources for another's profit or advantage, with or without the adult's consent.

"Exploitation" includes, but is not limited to, a single incident.

SECTION 2. Tennessee Code Annotated, Section 71-6-103(b)(1), is amended by deleting the first sentence and by substituting instead the following:

Any person, including, but not limited to the following, who knows or reasonably suspects that an adult is suffering or has suffered abuse, neglect or exploitation, shall report or cause reports to be made in accordance with the provisions of this part:

(i) Attorney, physician, osteopathic physician, medical examiner, chiropractor or nurse engaged in the admission, examination, care or treatment of adults;

- (ii) Health professional or mental health professional other than one listed in item (i);
- (iii) Practitioner who relies solely on spiritual means for healing;
- (iv) Social worker or other professional providing home, residential or institutional care;
- (v) State, county or municipal criminal justice employee or law enforcement officer;
- (vi) Member or staff of the Tennessee commission on aging; or
- (vii) Accountant, attorney, stockbroker, financial advisor or consultant, insurance broker or agent, investment advisor or consultant, financial planner, or any officer or employee of any bank, savings and loan, credit union or any other financial institution.

SECTION 3. Tennessee Code Annotated, Section 71-6-105, is amended by deleting the section in its entirety and by substituting instead the following:

(a) (1) IF a health care provider makes a report of abuse, neglect or exploitation, as required by the provisions of §71-6-103(b); AND

IF the report arises from an examination of the adult performed by the health care provider in the course of rendering professional care or treatment of the adult;

THEN

The health care provider shall not be liable in any civil, criminal or administrative action that is based solely upon:

- (A) The health care provider's decision to report what such provider believed to be abuse, neglect or exploitation;
- (B) The health care provider's belief that reporting such abuse, neglect or exploitation was required by law; or
- (C) The fact that a report of abuse, neglect or exploitation was made.

(2) As used in this subsection, "health care provider" means any physician, osteopathic physician, medical examiner, chiropractor, nurse, hospital personnel, mental health professional or other health care professional.

(3) Nothing in this subsection shall be construed to confer any immunity upon a health care provider for a criminal or civil action arising out of the treatment of the adult about whom the report of harm was made.

(4) (A) IF absolute immunity is not conferred upon a person pursuant to subdivision (a)(1); AND

IF, acting in good faith, the person makes a report of abuse, neglect or exploitation, as required by the provisions of §71-6-103(b); THEN

The person shall not be liable in any civil, criminal or administrative action that is based solely upon:

(i) The person's decision to report what the person believed to be abuse, neglect or exploitation;

(ii) The person's belief that reporting such abuse, neglect or exploitation was required by law; or

(iii) The fact that a report of abuse, neglect or exploitation was made.

(B) Because of the overriding public policy to encourage all persons to report abuse, neglect or exploitation of adults, any person upon whom good faith immunity is conferred pursuant to this subdivision shall be presumed to have acted in good faith in making a report of abuse, neglect or exploitation.

(5) No immunity conferred pursuant to this subsection shall attach if the person reporting the abuse, neglect or exploitation perpetrated or inflicted or caused the abuse, neglect or exploitation.

(6) A person furnishing a report, information or records as required or authorized under the provisions of this part shall have the same immunity and the same scope of

immunity with respect to testimony such person may be required to give or may give in any judicial or administrative proceeding or in any communications with the department or any law enforcement official as is otherwise conferred by the provisions of this subsection upon such person for making the report of abuse, neglect or exploitation.

(7) If the person furnishing a report, information or records during the normal course of such person's duties as required or authorized under the provisions of this part is different than the person originally reporting the abuse, neglect or exploitation, then the person furnishing such report, information or records shall have the same immunity and the same scope of immunity with respect to testimony such person may be required to give or may give in any judicial or administrative proceeding or in any communications with the department or any law enforcement official as is otherwise conferred by the provisions of this subsection upon the person who made the original report of abuse, neglect or exploitation.

(b) Any person reporting under the provisions of this part shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes a detrimental change in the employment status of the reporting party by reason of the report.

SECTION 4. This act shall take effect July 1, 2002, the public welfare requiring it.